

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19471
[REDACTED],	)	
	)	DECISION
Petitioners.	)	
_____	)	

On March 21, 2006, the Tax Discovery Bureau (Bureau) of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers), proposing income tax, penalty, and interest for taxable years 2002 and 2003 in the total amount of \$8,249.

The taxpayers filed a timely appeal. They did not submit additional information. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

Tax Commission records showed the taxpayers were Idaho residents who had not filed Idaho individual income tax returns for 2002 and 2003. [Redacted] Idaho Code § 63-3045 (1)(a) states:

**63-3045. Notice of redetermination or deficiency -- Interest.** (1) (a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by registered or certified mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is mailed, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

Because Idaho income tax records did not include the taxpayers' 2002 and 2003 Idaho returns, the Bureau notified the taxpayers of the missing returns. When the taxpayers did not respond,

the Bureau sent them a NODD addressing tax years 2002 and 2003 based on federal income records.

The taxpayers protested in a letter dated May 16, 2006, that was signed by [Redacted]. Mr. [Redacted] said the taxpayers did not agree with the determination because it did not include itemized deductions that would include two dependents and mortgage interest. He said in other years they have always received a refund. He did not offer to send actual returns.

The Bureau wrote back to the taxpayers to acknowledge their protest and ask again for the returns. Additional time was allowed but the returns were not filed.

When nothing was received from the taxpayers, their protest file was transferred to the Legal/Tax Policy Division for administrative review. The Tax Appeals Specialist sent a letter to the taxpayers to advise them of their rights regarding their appeal but no response was received.

Tax Commission records show that during the years 2002 and 2003 the taxpayers were Idaho residents with Idaho sourced income in excess of Idaho's filing requirements. The taxpayers have not filed the two Idaho individual income tax returns and have not indicated when the Tax Commission might expect to receive them.

The Bureau used [Redacted] records of the taxpayers' income to calculate the Idaho tax. The taxpayers were allowed the itemized deductions shown in their [Redacted] records for 2003 and the standard deduction for 2002. Credit was allowed for two dependents in 2003. Two dollars of withholding was identified for 2003 and a tentative payment of \$3,899 was allowed to offset a portion of the tax for 2002.

The Bureau added interest and penalty pursuant to Idaho Code §§ 63-3045 and 63-3046. The Tax Commission reviewed those additions and found them proper and in accordance with Idaho Code.

The Tax Commission is left with no choice in the appeal. Unless the taxpayers file Idaho returns or provide additional information to show the Bureau's computations are in error, the Tax Commission is unable to adjust the NODD.

A Notice of Deficiency Determination issued by the Idaho State Tax Commission is presumed to be accurate. Parsons v. Idaho State Tax Com'n, 110 Idaho 572 (Ct. App. 1986). Having presented no information in support of their argument, the taxpayers have failed to meet their burden of proving error on the part of the deficiency determination. Albertson's, Inc. v. State, Dept. of Revenue, 106 Idaho 810 (1984).

WHEREFORE, the Notice of Deficiency Determination dated March 21, 2006, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2002	\$1,729	\$ 432	\$342	\$2,503
2003	4,192	1,048	609	<u>5,849</u>
			TOTAL DUE	<u>\$8,352</u>

Interest is computed through September 15, 2006.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of taxpayers' right to appeal this decision is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]

Receipt No.

[Redacted]\_\_\_\_\_